GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA

UNSTARRED QUESTION NO:3083
ANSWERED ON:21.03.2007
RECOMMENDATION OF SECOND ARC
Nayak Smt. Archana

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

(a) whether the second Administrative Reforms Commission has recommended that the Lok Pal be given a constitutional status and keep PM out of the Ombudsman`s jurisdiction;

(b) if so, the details thereof;

(c) whether there is any proposal to bring judges under its ambit;

(d) if so, the details thereof; and

(e) if not, the reasons therefor?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF THE STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SURESH PACHOURI)

(a) : Yes, Sir.

(b) : A statement containing the recommendations of the second Administrative Reforms Commission in this regard is laid on the Table of the House.

(c) : No, Sir.

(d) : Does not arise.

(e) The second Administrative Reforms Commission has recommended in para 2.9.23 of its Fourth Report for constitution of `A National Judicial Council` for recommending appointment of Supreme Court and High Court judges by a collegium having representation of the executive, legislature and judiciary. It should also be entrusted with the task of oversight of the judges and to enquire into judicial misconduct and impose minor penalties. It can also recommend removal of a judge, if so warranted to the President.

STATEMENT REFERRED TO IN REPLY TO PART(B) OF LOK SABHA UNSTARRED QUESTION NO.3083 FOR 21.3.2007.

Extracts of the recommendation of second Administrative Reforms Commission made in its Fourth Report.

4.3.15 Recommendations:

(a) The Constitution should be amended to provide for a national Ombudsman to be called the Rashtriya Lokayukta. The role and jurisdiction of the Rashtriya Lokayukta should be defined in the Constitution while the composition, mode of appointment and other details can be decided by Parliament through legislation.

(b) The jurisdiction of Rashtriya Lokayukta should extend to all Ministers of the Union (except the Prime Minister), all state Chief Ministers, all persons holding public office equivalent in rank to a Union Minister, and Members of Parliament. In case the enquiry against a public functionary establishes the involvement of any other public official along with the public functionary, the Rashtriya Lokayukta would have the power to enquire against such public servant(s) also.

(c) The Prime Minister should be kept out of the jurisdiction of the Rashtriya Lokayukta for the reasons stated in paras 4.3.7 to 4.3.11.

(d) The Rashtriya Lokayukta should consist of a serving or retired Judge of the Supreme Court as the Chairperson, an eminent jurist as Member and the Central Vigilance Commissioner as the ex-officio Member.

(e) The Chairperson of the Rashtriya Lokayukta should be selected from a panel of sitting Judges of the Supreme Court who have more than three years of service, by a Committee consisting of the Vice President of India, the Prime Minister, the Leader of the Opposition, the Speaker of the Lok Sabha and the Chief Justice of India. In case it is not possible to appoint a sitting Judge, the

Committee may appoint a retired Supreme Court Judge.The same Committee may select the Member (i.e. an eminent jurist) of the Rashtriya Lokayukta. The Chairperson and Member of the Rashtriya Lokayukta should be appointed for only one term of three years and they should not hold any public office under the government thereafter, the only exception being that they can become the Chief Justice of India, if their services are so required.

(f)The Rashtriya Lokayukta should also be entrusted with the task of undertaking a national campaign for raising the standards of ethics in public life.